

By M. H. H. H.

S. B. No. 675

A BILL TO BE ENTITLED

AN ACT

relating to jurisdiction over underground water in critical areas and addition of territory to and adoption and collection of fees by underground water conservation districts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 52.0611, Water Code, is amended to read as follows:

Sec. 52.0611. ASSUMPTION OF JURISDICTION ON FAILURE TO CREATE DISTRICT. (a) If the voters in a critical area fail to approve the creation of a district, the commission by order may assume jurisdiction over the regulation of underground water within the boundaries of the critical area.

(b) In addition to any other authority, the commission may exercise the authority granted to a district created under this chapter to administer the critical area.

(c) The commission may issue permits for water wells within a critical area and may charge fees. The revenue from fees charged in the critical area shall be applied to the cost to the commission of administering the regulatory program under this section in the critical area.

(d) Any rules that the commission adopts pursuant to this section shall be adopted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). The rules may apply within any part of the

1 territory of a city, county, district, authority, or other  
2 political subdivision of the state that is located within the  
3 critical area.

4 (e) Except as specifically required by Subsection (f) of  
5 this section, the commission may relinquish jurisdiction over the  
6 critical area at any time.

7 (f) On or after the first anniversary of the date on which  
8 the commission assumes jurisdiction over a critical area, a  
9 majority or 50 or more of the voters in the critical area,  
10 whichever number is less, may petition the commission to appoint  
11 temporary directors to call another election in the critical area  
12 to approve the creation of a district. If the commission  
13 determines that the creation of the district will benefit the  
14 critical area, the commission shall appoint temporary directors and  
15 shall issue an order directing that an election for the district be  
16 held. If the commission receives a petition to create a district  
17 in a critical area under this subsection, the commission must  
18 retain jurisdiction over underground water in the critical area at  
19 least until the election is held and the results declared. [STATE  
20 ASSISTANCE--A-city,-county,-or-district-created-under-Article-III,  
21 Section-52 (b) (1)-and-(2),-or-Article-XVI,-Section-59,-of-the--Texas  
22 Constitution--that--is--located-in-an-area-delineated-as-a-critical  
23 area-under-this-chapter-and-in-which-the-qualified-voters--fail--to  
24 approve--the--creation-of-a-district-is-not-eligible-to-receive-any  
25 financial-assistance-from-the-state-under-Chapter-15,-16,-or-17--of  
26 this-code.]

27 SECTION 2. Chapter 52, Water Code, is amended by adding

1 Section 52.0241 to read as follows:

2 Sec. 52.0241. ADDING TERRITORY TO AN EXISTING DISTRICT. (a)

3 If territory in a management area is located outside of and  
4 adjacent to an existing district, the executive director or any  
5 person who resides in the territory or owns land in the territory  
6 may petition the commission to order an election to determine  
7 whether the territory should be added to an existing district  
8 designated by the commission. Also, the commission may institute  
9 proceedings on its own motion to order this election.

10 (b) A petition shall include a description of the boundaries  
11 of the territory to be added to the existing district and any other  
12 information the commission requires. A bond or deposit in an  
13 amount sufficient to pay the costs of an election held under this  
14 section shall accompany this petition, and the commission may  
15 require an additional bond or deposit.

16 (c) Before the commission orders an election to be held, the  
17 commission must submit a copy of the petition, if any, to the board  
18 of the district to which the territory is proposed to be added.  
19 Not later than the 60th day after the date on which the board  
20 receives the petition, the board shall vote on whether or not to  
21 accept the additional territory as part of the district. The  
22 governing board shall give notice to the commission of its decision  
23 in writing not later than the 10th day after the date on which the  
24 board votes on the addition of the territory. The copy of the  
25 petition and the notice required to be provided by this subsection  
26 must be sent by certified or registered mail return receipt  
27 requested.

1       (d) If the board votes to accept the territory, the  
2 commission shall order an election in the territory to determine if  
3 the territory should be added to the district and to authorize the  
4 territory to assume a proportionate share of the district's  
5 outstanding indebtedness. If the board votes not to accept the  
6 territory as part of the district, the commission may not order an  
7 election and the territory may not be added to the district.

8       (e) Before ordering an election to be called, the commission  
9 must find that:

10           (1) the property in the territory and the property in  
11 the existing district will benefit from the addition of the  
12 territory to the district;

13           (2) there is a public need to add the territory to the  
14 district; and

15           (3) addition of the territory to the district will  
16 further the public welfare.

17       (f) In the election order, the commission shall include a  
18 delineation of the boundaries of the territory and designate the  
19 district to which the territory is to be added.

20       (g) The commission shall submit a copy of its order to the  
21 district's board. Not later than the 10th day after the date the  
22 district receives the copy of the commission's order, the board  
23 shall call an election in the territory. Except as specifically  
24 provided by this section, the election shall be called and held as  
25 provided by the Election Code.

26       (h) The board shall give notice of the election by  
27 publishing notice at least one time in one or more newspapers with

1 general circulation in the territory. The notice must be published  
2 before the 30th day preceding the date set for the election.

3 (i) The ballots for the election shall be printed to provide  
4 for voting for or against: "The inclusion of (briefly describe the  
5 territory to be added to the district) in the \_\_\_\_\_ District and  
6 assumption by the territory of a proportional share of the  
7 outstanding indebtedness of the district."

8 (j) After the election, the presiding judge of each polling  
9 place shall deliver the returns of the election to the board and  
10 the board shall canvass the results. If a majority of the voters  
11 in the territory voting in the election vote to add the territory  
12 to the district, the board shall declare the territory added to the  
13 district. If a majority of the voters in the territory voting in  
14 the election vote against adding the territory to the district, the  
15 board shall declare that the territory is not added to the  
16 district. The board shall file a copy of the election results with  
17 the commission.

18 (k) If the voters approve adding the territory to the  
19 district, the costs of the election shall be paid by the district  
20 as expanded. On written request of a person presenting a petition  
21 under Subsection (a) of this section, the commission shall order  
22 the bond or deposit submitted with the petition to be returned to  
23 the petitioner.

24 (l) If the territory is not added to the district, the cost  
25 of the election shall be paid as follows:

26 (1) if a bond or deposit is submitted, the commission  
27 shall use the proceeds of the bond or deposit to pay the election

1 costs on petition of the district for payment; or

2 (2) if the executive director or commission initiated  
3 the election procedure, the commission shall pay the cost of the  
4 election.

5 (m) If a district petitions under Subsection (1)(1) of this  
6 section for use of the bond or deposit to pay for the election, the  
7 board shall include with the petition a sworn account of the costs  
8 of the election and the commission shall order that those costs be  
9 paid from the proceeds of the bond or deposit. The commission may  
10 order either that the expenses be paid to the persons to whom they  
11 are owed or that the district be reimbursed. If the costs exceed  
12 the amount of the bond or deposit, the commission shall pay the  
13 excess costs. Any proceeds from the bond or deposit that remain  
14 after payment of all expenses shall be returned to the petitioner.

15 (n) If territory is added to an existing district, the board  
16 shall provide for reasonable representation of the territory on the  
17 board that is compatible with the district's existing scheme of  
18 representation.

19 (o) If a proposition to add territory to a district fails,  
20 another election may not be held before the first anniversary of  
21 the date on which the election at which the proposition failed was  
22 held.

23 (p) Notwithstanding Section 52.026 of this code, this  
24 section applies to territory added to districts under this  
25 subchapter and Subchapter C of this chapter.

26 SECTION 3. Chapter 52, Water Code, is amended by adding  
27 Section 52.262 to read as follows:

1       Sec. 52.262. FEES. (a) A district may establish and  
2 collect fees necessary for the administration and operation of the  
3 district.

4       (b) The fees collected under this section may be used to  
5 cover the cost incurred by the district in issuing permits and  
6 performing other regulatory functions authorized by this  
7 subchapter. Also, fees may be used to pay the operating and  
8 maintenance expenses of the district and the principal of and  
9 interest on bonds and notes of the district.

10       SECTION 4. Section 52.292, Water Code, is amended to read as  
11 follows:

12       Sec. 52.292. MANNER OF REPAYMENT OF BONDS AND NOTES. The  
13 board may provide for the payment of principal of and interest on  
14 the bonds and notes in any one of the following manners:

15               (1) from the levy and collection of ad valorem taxes  
16 on all taxable property within the district;

17               (2) from fees imposed under Section 52.171 of this  
18 code;

19               (3) by pledging all or any part of the designated  
20 revenues from the ownership or operation of the district's works,  
21 improvements, and facilities and from the sale, transportation, and  
22 distribution of water; [er]

23               (4) from fees imposed under Section 52.262 of this  
24 code; or

25               (5) from a combination of the sources listed in  
26 [Subdivisions-(1)-(3)-ef] this section.

27       SECTION 5. This Act takes effect September 1, 1987.

1           SECTION 6.   The importance of this legislation and the  
2 crowded condition of the calendars in both houses create an  
3 emergency and an imperative public necessity that the  
4 constitutional rule requiring bills to be read on three several  
5 days in each house be suspended, and this rule is hereby suspended.



# FILE

7087

## BILL ANALYSIS

By: Montford

S.B. 675

### BACKGROUND:

Currently, the Water Code provides that a city, county, or district which is located in an area delineated as a critical area, and in which the qualified voters do not approve the creation of the district, is not eligible to receive financial assistance from certain State programs. The intent of the section was to provide voters with an incentive to approve the creation of an underground water conservation district. It has been suggested that this provision may be problematic in that state funds for many other water projects might not be available if the election fails.

### PURPOSE:

As proposed, S.B. 675 would provide for the Water Commission to assume regulation in the area where an election for an underground water conservation district failed.

### RULEMAKING AUTHORITY:

It is the committee's opinion that rulemaking authority is granted to the Texas Water Commission under Section 1 of this bill.

### SECTION BY SECTION ANALYSIS:

SECTION 1. Amends Section 52.0611, Water Code, as follows:

Sec. 52.0611. (a) Allows the Texas Water Commission (commission) to assume jurisdiction over underground water regulation in a critical area if the voters fail to create a district in such area. (b) Allows the commission to exercise the authority granted to a district created under this chapter to administer the critical area. (c) Allows the commission to issue permits for water wells within a critical area and to charge fees. (d) Provides for adoption and application of rules pursuant to this section. (e) Allows the commission to relinquish jurisdiction over the critical area, with exceptions. (f) Provides for another election in the critical area to approve the creation of a district, at least one year after assumption of jurisdiction over a critical area by the commission.

SECTION 2. Amends Chapter 52, Water Code, by adding Section 52.0241, as follows:

Sec. 52.0241. (a) Provides for an election to determine whether territory in a management area located outside of and adjacent to an existing district should be added to the district. (b) Sets forth the requirements for a petition for such election. (c) Requires submission of a copy of such petition to the board of the district and approval of the board to accept the additional territory as part of the district. (d) Provides actions of the commission upon a decision of the board on whether or not to accept the territory in the district. (e) Requires certain findings by the commission before an election may be called. (f) Requires the commission to include certain details in the election order. (g) Requires the board to call the election within 10 days after receipt of a copy of the commission's order. (h) Requires public notice of the election. (i) Provides the language for election ballots. (j) Provides the procedure after the election results are known. (k) Provides for payment of election costs upon voter approval of an addition of the territory to the district. (l) Provides for payment of election costs upon voter disapproval of an addition of territory to the district. (m) Provides for excessive costs or a remainder after payment of expenses when a bond or deposit is used to pay for the election under Subsection (l)(1). (n) Requires the board to provide reasonable representation on the board compatible with the district's existing scheme of representation. (o) Prohibits another election from being held within one year after the failure of a proposition to add territory to a district. (p) Applies this section to territory added to districts under this subchapter and Subchapter C of this chapter, notwithstanding Section 52.026 of this code.

SECTION 3. Amends Chapter 52, Water Code, by adding Section 52.262, as follows:

Sec. 32.018. (a) Requires the watercraft tags to be constructed of a certain material. (b) Requires the watercraft tags to expire on December 31 of the issue year.

Sec. 32.019. (a) Sets the fee for paddle-propelled watercraft. (b) Sets the fee for a rented inner tube. (c) Allows the agent issuing the tag to retain fifty cents of the fee. (d) Requires fees collected for watercraft tags to be deposited in the fund in the Treasury.

Sec. 32.020. Exempts certain watercraft from the provisions of this subchapter.

Sec. 32.021. Provides for designation of rivers as wild, scenic, or recreational.

Sec. 32.022. (a) Provides that government agencies may consider potential designations of rivers as units of the system when planning water resource use. (b) Limits a state agency in authorizing plans of other governmental agencies that would detrimentally affect the system. (c) Requires the Parks and Wildlife Department (department) and the Texas Water Commission to evaluate projects affecting a unit of the system.

Sec. 32.023. (a) Provides for transfer of jurisdiction of land within or adjacent to any unit of the system to the department. (b) Provides for administration of any state-owned land within or adjacent to any unit of the system. (c) Subjects land acquired by the department as part of the system to the laws and rules governing state park lands.

Sec. 32.024. Prohibits certain uses of rivers and streams in the system.

Sec. 32.025. (a) Allows certain uses of the system with a permit. (b) Requires the commission to adopt by rule a list of uses requiring a permit, and sets forth certain uses which shall require a permit. (c) Sets forth certain guidelines and considerations for the director when making an evaluation under Subsection(a) of this section. (d) Requires the commission to adopt rules to administer this section. (e) Provides for the exemption from a commission permit for any activity authorized by a permit of the Texas Water Commission.

Sec. 32.027. (a) Provides that this chapter does not restrict the normal activities of a riparian landowner without an agreement. (b) Allows riparian owners of streams in the system to grant easements. (c) Provides that the unauthorized use of private property along units of the system is trespassing.

Sec. 32.028. Provides the criminal penalty for a violation of Section 32.017, 32.024 or 32.025 of this chapter.

Sec. 32.029. Provides the civil penalty for violation of Section 32.024 and 32.025 of this chapter.

Sec. 32.030. (a) Provides for enforcement of the provisions of this chapter. (b) Provides for injunctive relief upon a violation of the provisions of this chapter.

#### Subchapter C.

Sec. 32.041. Designates certain rivers or segments of rivers as wild rivers in the system.

Sec. 32.042. Designates certain rivers or segments of rivers as scenic rivers in the system.

Sec. 32.043. Designates certain rivers or segments of rivers as recreational rivers in the system.

SECTION 3. Requires the Parks and Wildlife Commission to adopt rules under Section 32.025, Parks and Wildlife Code, as added by this Act, not later than January 1, 1988.

SECTION 4. Emergency clause.

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

April 1, 1987

TO: Honorable H. Tati Santiesteban, Chairman  
Committee on Natural Resources  
Senate Chamber  
Austin, Texas

In Re: Senate Bill No. 675  
By: Montford

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 675 (relating to jurisdiction over underground water in critical areas and addition of territory to and adoption and collection of fees by underground water conservation districts) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The Commission may by order assume jurisdiction over the regulation of underground water in critical areas if the voters fail to approve the creation of the district. The Commission may issue permits for water wells within the critical area and may charge fees. The revenues received would be applied to the cost to the Commission of administering the regulatory program in that area.

A district created by this bill may establish and collect fees which may be used to cover the cost incurred by the district in issuing permits and performing other authorized functions. Fee revenues may also be used to pay the operating and maintenance expenses of the district and the principal of an interest on bonds and notes of the district.

The probable fiscal implication of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

Fiscal Year	Probable Cost Out of the General Revenue Fund	Probable Revenue Gain to the General Revenue Fund	Probable Cost to Units of Local Government	Change in Number of State Employees from FY 1987
1988	\$149,191	\$77,095	\$-0-	+ 4.1
1989	138,706	71,853	10,000	+ 4.1
1990	138,706	71,853	10,000	+ 4.1
1991	138,706	71,853	10,000	+ 4.1
1992	138,706	71,853	10,000	+ 4.1

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

Source: Water Commission; Water Development Board;  
LBB Staff: JO, HES, JWH, JG, PA

S. B. No. 675

By Mummaid

AN ACT relating to jurisdiction over underground water in critical areas and addition of territory to and adoption and collection of fees by underground water conservation districts.

3-4-87

Filed with the Secretary of the Senate

MAR 5 1987

Read and referred to Committee on NATURAL RESOURCES

Reported favorably

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by:

{ unanimous consent

{ \_\_\_\_\_ yeas, \_\_\_\_\_ nays

Read second time, \_\_\_\_\_, and ordered engrossed by:

{ unanimous consent  
a viva voce vote

{ \_\_\_\_\_ yeas, \_\_\_\_\_ nays

Caption ordered amended to conform to the body of the bill.

Senate and Constitutional 3 Day Rule suspended by a vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

Read third time, \_\_\_\_\_, and passed by \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

\_\_\_\_\_  
SECRETARY OF THE SENATE

OTHER ACTION:

\_\_\_\_\_  
Engrossed

\_\_\_\_\_  
Sent to House

Engrossing Clerk

\_\_\_\_\_  
Received from the Senate

\_\_\_\_\_  
Read first time and referred to Committee on \_\_\_\_\_

\_\_\_\_\_  
Reported favorably amended, sent to Printer at \_\_\_\_\_

\_\_\_\_\_  
Printed and Distributed \_\_\_\_\_

\_\_\_\_\_  
Sent to Committee on Calendars \_\_\_\_\_

\_\_\_\_\_  
Read Second time (amended): passed to third reading (failed)

by (Non-Record Vote) Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays \_\_\_\_\_ present not voting.

\_\_\_\_\_  
Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays \_\_\_\_\_ present not voting.

\_\_\_\_\_  
Read third time (amended); finally passed (failed) by a (Non-Record Vote) Record Vote of

\_\_\_\_\_ yeas, \_\_\_\_\_ nays \_\_\_\_\_ present not voting.

\_\_\_\_\_  
Caption ordered amended to conform to body of bill.

\_\_\_\_\_  
Returned to Senate.

\_\_\_\_\_  
CHIEF CLERK OF THE HOUSE

\_\_\_\_\_  
Returned from House without amendment.

\_\_\_\_\_  
Returned from House with \_\_\_\_\_ amendments.

\_\_\_\_\_  
Concurred in House amendments by a viva voce vote \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

\_\_\_\_\_ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

\_\_\_\_\_ Senate conferees instructed.

\_\_\_\_\_ Senate conferees appointed: \_\_\_\_\_, Chairman; \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_.

\_\_\_\_\_ House granted Senate request. House conferees appointed: \_\_\_\_\_, Chairman;  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_ Conference Committee Report read and filed with the Secretary of the Senate.

\_\_\_\_\_ Conference Committee Report adopted on the part of the House by: \_\_\_\_\_

{ a viva voce vote  
\_\_\_\_\_ yeas, \_\_\_\_\_ nays

\_\_\_\_\_ Conference Committee Report adopted on the part of the Senate by: \_\_\_\_\_

{ a viva voce vote  
\_\_\_\_\_ yeas, \_\_\_\_\_ nays

**OTHER ACTION:**

\_\_\_\_\_ Recommitted to Conference Committee

\_\_\_\_\_ Conferees discharged

\_\_\_\_\_ Conference Committee Report failed of adoption by: \_\_\_\_\_

{ a viva voce vote  
\_\_\_\_\_ yeas, \_\_\_\_\_ nays